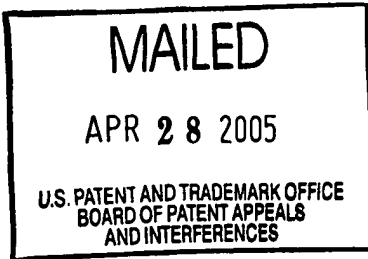


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JACQUELYN ANNETTE MARTINO,
DAMIAN M. LYONS and KAREN I. TROVATO

Application 09/282,320

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on April 7, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

On July 19, 2004, appellants filed a Notice of Appeal and on July 26, 2004, an Appeal Brief was filed. On November 30, 2004, an Examiner's Answer was mailed in response to the Appeal Brief. On August 12, 2004, the "Rules of Practice before the Board of Patent Appeals and Interferences" were printed in the

Federal Register (69 Fed. Reg. 49959, final rule). These rules became effective on September 13, 2004. A Reply Brief was filed under the new rules on January 26, 2005 (§ 41.41). Section 41.43 reads as follows:

§ 41.43 Examiner's response to reply brief.

(a)(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

(2) A supplemental examiner's answer responding to a reply brief may not include a new ground of rejection.

(b) If a supplemental examiner's answer is furnished by the examiner, appellant may file another reply brief under § 41.41 to any supplemental examiner's answer within two months from the date of the supplemental examiner's answer.

(c) Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136(b) of this title for extensions of time to reply for patent applications.

In response to the Reply Brief filed January 26, 2005, the Examiner mailed a paper entitled "Supplemental Examiner's

Application 09/282,320

Answer." The examiner must follow the guidelines set forth in training material entitled "Rules of Practice Before the Board of Patent Appeals and Interferences, Final Rule," located at the following URL:

www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html

The Supplemental Examiner's Answer mailed February 18, 2005 is deficient because the signature of a TC Director, Special Programs Examiner (SPRE), or Quality Assurance Specialist (QAS) has not been obtained. Correction is required.

In addition, a Supplemental Reply Brief was filed on April 20, 2005. There is no indication in the record regarding whether or not the examiner has considered the Reply Brief. See § 41.43. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the examiner:

1. for obtaining the signature of a Director, SPRE, or QAS on the Supplemental Examiner's Answer mailed February 18, 2005;


Application 09/282,320

2. for consideration of the Supplemental Reply Brief
filed April 20, 2005;

3. for written communication to appellants regarding
the action taken; and

4. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW
Program and Resource Administrator
(571) 272-9797

DMS:psb

cc: Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510